



7-18-06

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RESPONSE TO RESTRICTION REQUIREMENT

Atty. Docket No.
GOUD1240

Applicant(s)
Martin Malservisi et al.

Application Number
10/634,651

Date Filed
August 5, 2003

For
ZINC POWDERS FOR USE IN ELECTROCHEMICAL CELLS

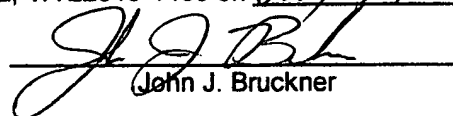
Group Art Unit
1745

Examiner
Martin, Anglea J.

Confirmation Number:
6363

Certificate of Express Mailing Under 37 C.F.R. 1.10

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail Post Office to Addressee in an envelope bearing Express Mail mailing label number EQ 915238975 US addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on July 17, 2006.


John J. Bruckner

EQ915238975US

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Official Action mailed on June 15, 2006, in connection with the above-identified patent application. The Examiner has required restriction of the above-identified application to one of the following inventions 35 U.S.C. 121.

- Group I: Claims 1-4, drawn to a method of making battery grade zinc powder;
- Group II: Claims 5-43, drawn to a battery grade powder comprising zinc metal or zinc alloy particles;
- Group III: Claims 44-48, 56-59, drawn to an electrochemical cell comprising zinc powder; and
- Group IV: Claims 49-55, drawn to battery grade zinc powder comprising stranded particles of zinc metal.

Responsive to the Requirement for Restriction, **Applicants hereby elect to prosecute the invention of Group II (claims 5-43) with traverse.** The traversal is on the grounds that the Examiner has failed to establish that a search of both the claims of Group II and Group IV, which are of the same class, would be an undue burden as required by MPEP 803. MPEP 803 states:

"[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." It is Applicants' position that the Examiner has failed to establish that a search of the entire application constitutes an undue burden. Therefore, it is requested that the entire application be searched and Examined.

In accordance with this election with traverse, Applicants reserve all rights in the non-elected claims, including the right to file one or more divisional applications covering the subject matter thereof.

The Examiner is invited to telephone the undersigned (at direct line 512-394-0118) for prompt action in the event issue(s) remain that prevent the allowance of all pending claims.

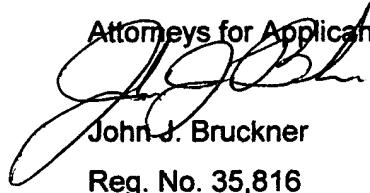
The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3204 of John Bruckner PC.

Dated: July 15, 2006
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Austin, TX 78739
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Respectfully submitted,

John Bruckner PC

Attorneys for Applicant

A handwritten signature in black ink, appearing to read "John J. Bruckner", is written over the printed name and registration number.

John J. Bruckner

Reg. No. 35,816